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Minutes

Rail Advisory Board Meeting Science Museum of Virginia 2500 W. Broad St. Richmond, VA

November 30, 2005

Members present:

Richard L. Beadles	David A. Brown II
Sharon Bulova	Trenton Crewe
Dwight L. Farmer	Wiley F. Mitchell, Jr.
Honorable Jack Quinn	Peter J. Shutz
Hunter R. Watson	

The meeting was called to order at 10:05 a.m. by Sharon Bulova, interim chair.

Adoption of Meeting Agenda

A motion to accept the agenda of the November 30, 2005 meeting was made by Dwight Farmer and Wiley Mitchell, seconded by Jack Quinn and unanimously approved by the Rail Advisory Board members.

Adoption of Minutes

A motion to accept the minutes of the October 13, 2005 meeting was made by Trenton Crewe, seconded by Hunter Watson and unanimously approved by the RAB members.

Dwight Farmer requested that the minutes for this meeting have more substance. He understood that the minutes are summary in nature but felt it best, based on the impending discussions for this meeting that more information be provided in written form. It was agreed that enhanced minutes would be provided.

Public Comments

Ms. Bulova opened the floor to public comments. The RAB received the following statements from the public:

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Jim Benz – representative for Commonwealth Railway made statements of thanks and appreciation to the Board and moving forward the interests of rail in the Commonwealth.

Rob Martinez and Sarah Corey representatives for Norfolk Southern (NS) – echoed the statements of Jim Benz.

John Thompson -- representative for Virginians for High Speed Rail indicated that he was disappointed that enhancement to passenger rail was left out and that specifically Newport News/Richmond/Washington Corridors were not included. He went on to say that he hopes that next year's funding will have more funding available or have a greater emphasis on intercity rail. He recommended to the Board that they consider removing the match for the intercity passenger rail component.

Karen Rae – DRPT Director asked Mr. Thompson to stay and join the Board during their afternoon discussion where more detail on passenger projects would be provided. Ms. Rae emphasized that the VRE/Amtrak projects will move passenger rail forward.

Billy Eason and Adam Frankle – representing Commonwealth Railway indicated that the comments made by Mr. Benz were consistent with their positions.

RAB Member Disclosure

At the end of Public Comments, Ms. Bulova called for full disclosure of RAB members and a brief discussion ensued.

Mr. Mitchell commented that he wanted to participate in the discussion and requested that the RAB be exempted from disclosure. Mr. Mitchell further indicated that he is retired from NS and has more than \$10,000 in common stock, and that he and his partners provide legal services to NS and other Class I railroads.

Mr. Crewe indicated that he had no conflicts.

Pete Shudtz said that he is a CSX employee and is receiving more than \$10,000 in compensation.

Ms. Bulova indicated that she has no conflict as a VRE – Operations Board member because she receives no compensation or salary.

Mr. Watson indicated that he had no conflicts.

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Mr. Beadles said that he is a CSX retiree that receives more than \$10,000 in retirement payments and stock interest. However, he stressed that he has been an impartial rail advocate for over 10 years.

Mr. Quinn indicated that he is the President of a Government Relations firm, but has no conflicts.

David Brown said that he is a NS employee and is receiving more than \$10,000 in compensation and is party to an agreement with the Commonwealth Railway Purchase.

Mr. Farmer said that he had no conflict.

Ms. Rae said that all of the DRPT staff working on/for the Rail Advisory Board (RAB) and Rail Enhancement Fund (REF) have signed full disclosure statements and have no conflicts.

Presentation: Overview of Tier I Projects for First Round of Funding Consideration

Karen Rae's presentation, which was provided to the Board, covered 12 projects selected for the initial round of funding, including:

- Heartland Corridor – Virginia Components (NS)
- APM Maersk Terminals Rail Yard Expansion (APMTVA)
- Commonwealth Railway Line Purchase (CWRY)
- Suffolk Connection from CSX to Commonwealth Railway (CSX)
- Portsmouth Subdivision Height Clearances (CSX)
- North Acca Yard Switches (CSX)
- Richmond Port Passenger/Freight Improvements (TDX)
- Charlottesville Connecting Track Upgrade (BB)
- VRE Gainesville/Haymarket Extension (VRE)
- VRE Cherry Hill Station and Third Track (VRE)
- Intermodal Improvements – Crewe to Suffolk (NS)

The Director indicated that the Richmond Port project was advancing as a study, as was the Virginia/North Carolina Passenger Rail EIS. Ms. Rae reviewed the general contract conditions and the core assumptions for public benefit. She recognized and thanked George Conner, Kevin Page, Alan Tobias, and Ranjeet Rathore for their work and input. Ms. Rae stressed that the benefit/cost ratios were conservative and covered a 20 year timeframe and how important it was that the key factors were understandable and in plain English.

Mr. Mitchell spoke to the impact on streams and rivers.

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The final listing of projects for the first round of funding consideration from the Rail Enhancement Fund was distributed to the Board and public and is available on the DRPT website.

Recommendation That DRPT Seek CTB Approval of Tier I Projects for Funding

At the end of the presentation Ms. Bulova called for approval of the Tier I projects. She suggested the following motion: "The Department of Rail and Public Transportation seek the Commonwealth Transportation Board approval of the Tier 1 projects that we have before us listed for funding."

Wiley Mitchell made the motion: "We approve the projects, as recommended by the Director of the Department of Rail and Public Transportation, and we recommend to the Commonwealth Transportation Board that they be funded." It was seconded by Mr. Quinn and was unanimously approved by the RAB members.

Mr. Crewe expressed concern about the three years of funding in one year and the inclusion/enforcement of the "claw" back clause. John Beale, AG representative, indicated that the state is morally obligated subject to appropriations. Mr. Beadles also voiced his concern about the state's ability to get money back and cautioned that the staff carefully work to ensure that the projects protect the state's interest.

Ms. Bulova and Ms. Rae asked the Rail Staff to stand and be recognized for their work on preparing the first slate of projects under the Rail Enhancement Fund.

Break for lunch---

Election of RAB Officer(s)

At 1:02 pm the meeting was called back to order. Mr. Watson made the nomination of Ms. Bulova for Chair and Mr. Crewe as Vice Chair. Ms. Bulova accepted the nomination as did Mr. Crewe. Mr. Watson moved to accept Ms. Bulova as Chair and Mr. Crewe as Vice Chair, which was seconded by Mr. Mitchell and was unanimously approved by the RAB members. Mr. Beadles commended Ms. Bulova on her service to rail through the Governor's Commission on Rail Enhancement for the 21st Century and continued work with this Board.

After discussion by the Board the terms for the Chair and Vice-Chair were established as one calendar year, with no term limits, on a motion by Mr. Beadles, seconded by Mr. Mitchell and unanimously approved by the Rail Advisory Board members. Election will be at the last meeting of each calendar

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year with the officers assuming their positions the first meeting of the next calendar year.

Rail Advisory Board Strategic Planning Session

The Director of DRPT started the afternoon planning session by giving an overview which included the following issues:

1. Legislative Actions – timeliness issue, what is out there and what we might need to be considering for future activities. This included a discussion of ‘whose role was what’ in relation to legislation and budgets.
2. How would the Board consider DRPT and this body and the Fund, looking back in four years – what would we consider success.
3. Potential Strategic Issues – raised in earlier meetings and staff discussions
4. Support Needs – What should DRPT be supplying the Board as technical product to make their job easier.

Chairman Bulova led the discussion on the need to be more proactive than reactive on addressing the future needs and projects.

The Board continued discussing the conflict of interest concerns and legislation that may provide relief for those concerns. Mr. Quinn stated that the Board needs to be careful what they ask for as it may limit some of their ability to do good for the Commonwealth. Further discussion ensued on proposing legislation and timing. At the end of the discussion, Mr. Mitchell discussed the need to seek legislation for the exemption of advisory boards to conflict of interest statutes specific to the section that prohibits discussion of action items; this was seconded by Mr. Crew and was unanimously approved by the RAB members.

Transportation Partnership Opportunity Fund (TPOF) discussion ensued. Ms. Rae indicated that the current understanding is that it cannot be used on Private Right of Way. Mr. Mitchell asked if a PPTA could be considered with a follow up question from Mr. Crewe about funding from other sources. Ms. Rae indicated that this is a discussion that will likely occur during the 2006 GA session. Bruce Wingo from Norfolk Southern further clarified the use of TPOF and the usefulness of the fund. Ms. Rae indicated that DRPT will work with the AG’s office on the eligibility of projects. Ms. Bulova recapped the discussion, requesting that the Director work on the options available and reiterated that the REF be held harmless.

There was additional discussion on the REF and the use of federal funding as a match for passenger rail. Mr. Beale, citing the code, indicated that funding is silent to any other revenue sources and that the statute does not preclude other sources.

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Other items discussed and suggested, Ms. Bulova thought the RAB should consider putting together a GA agenda from the Boards perspective. She also requested that the Director develop a list, if given the money, of what the Commonwealth could spend it on. Mr. Brown indicated that the Board should ensure good passenger projects going forth.

Ms. Rae clarified project numbers in the Tier I projects. She also agreed that she would put together a list for the RAB chair to address.

Confirm General Agenda Items for January 12, 2006 Meeting

Issues Items/Presentations requested by the Board:

- How the acquisition of right of way is handled and how is the Commonwealth of Virginia's interest protected?
- Clarification of Conflict of Interest regulations as applied to Advisory Boards.
- What other funds are available and what are the restrictions on their use?
- Updated Rail Map – with defined corridors, choke points, and rights-of-way. Could USGS information be included for grades?
- How can multi-state projects be incorporated into program/projects?

The meeting was adjourned at 3:44 pm.